

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

BARBARA J. WEBER, Ph.D.,

Plaintiff,

v.

DAVID E. EASH, Attorney at Law;
JOHN MUNDING, Trustee of the
Court; PAUL ZAMBON; and
GENERAL SERVICES
ADMINISTRATION,

Defendants.

NO: 2:15-CV-225-RMP

ORDER DENYING DEFAULT
JUDGMENT

BEFORE THE COURT is *pro se* Plaintiff Dr. Barbara Weber's Motion for Default Judgment Against Mr. Eash, **ECF No. 16**. The Court has reviewed the filings, the response brief (ECF No. 18), and is fully informed.

Dr. Weber filed her initial complaint on September 3, 2015. ECF No. 1. Dr. Weber filed an amended complaint on September 8, 2015. ECF No. 4. Dr. Weber then moved the Court for leave to file a second amended complaint on September 23, 2015. ECF No. 8. The Court granted leave to amend on October 14, 2015. ECF No. 20. Dr. Weber moved for a default judgment against Defendant David Eash on

1 October 13, 2015. ECF No. 11. Mr. Eash filed both a response brief and an answer
2 to Dr. Weber's first amended complaint on October 13, 2015. ECF Nos. 17 and 18.

3 Under Fed. R. Civ. P. 55, obtaining a default judgment in federal court is a
4 two-step process: (1) entry of default and (2) entry of default judgment. LR 55.1.
5 To move for entry of default, a party must (1) provide written notice to counsel or
6 the party against whom default is sought at least fourteen days prior to filing for
7 entry of default and (2) file an affidavit showing that proper notice has been given
8 and that the party against whom default is sought was properly served with the
9 summons and complaint. LR 55.1(a)-(b). "No motion for judgment by default shall
10 be filed unless an order of default has been entered by the Clerk." LR. 55.1(b).

11 In the Ninth Circuit, the general rule is that "default judgments are ordinarily
12 disfavored. Cases should be decided upon their merits whenever reasonably
13 possible." *Eitel v. McCool*, 782 F.2d 1470, 1472 (9th Cir. 1986). Here, Dr. Weber
14 failed to follow the two-step procedure for obtained a default judgment. The
15 preliminary requirement of an entry of default had not been satisfied. Further,
16 while Dr. Weber moves for entry of default on her first amended complaint filed
17 on September 8, 2015, Dr. Weber had moved for leave to file a second amended
18 complaint on September 23, 2015. As that motion was pending before the Court
19 when Dr. Weber filed for entry of a default judgment, it is understandable that Mr.
20 Eash had not filed an answer as it was unclear which document was the operative
21 pleading.

1 Accordingly, **IT IS HEREBY ORDERED** that Dr. Weber's Motion for
2 Default Judgment Against Mr. Eash, **ECF No. 16**, is **DENIED**.

3 The District Court Clerk is directed to enter this Order and provide copies to
4 counsel and *pro se* Weber.

5 **DATED** this 18th day of November 2015.

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7 *s/ Rosanna Malouf Peterson*
8 ROSANNA MALOUF PETERSON
9 Chief United States District Court Judge
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